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October 17, 2011

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: 11-27 Complaint of Rodney Daniel

Dear Chief Turner:

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaint filed by Rodney Daniel alleging Officers Mercado, Moore and Ramirez engaged in unnecessary and excessive force when they assaulted him during an arrest that occurred on April 25, 2011.

Mr. Daniel stated that on April 25, 2011 at about 12 p.m. he was at the Forest Cove Apartments, standing with two or three others. An unidentified Atlanta Police Officer approached with his firearm drawn and pointed at one of the men and ordered them to get down. The men ran and Mr. Daniel walked behind the building and proceeded through the field to the other side of the complex. About 5-10 minutes later, an Atlanta Police Officer, later identified as Lyle Moore, approached him from behind with his weapon drawn and pointed at him and said, "It is me and you in this field, I'll shoot you." He ordered him onto the ground. He began to walk towards Officer Moore and Officer Moore sprayed OC spray into his face. He ran and then fell. Officer Moore allowed him to get up, so he continued running. He ran towards an area where people were congregated. Mr. Daniel indicated that Officer Moore had his gun in his hand and was repeatedly yelling that he will shoot him if he did not stop running. He saw that a person had left his apartment door open and he ran into the apartment and Officer Moore followed. He ran out of that apartment and into a nearby apartment where the door was also open. He entered the second apartment and was tired and having difficulty breathing, so he held both arms up and told Officer Moore that he gave up. Officer Moore struck him in his head several times with handcuffs. He repeated that he gave up but the officer struck him several more times in the face with his closed fist and handcuffs. Another officer arrived, later identified as Richard Ramirez and placed his arm around his neck and began to choke him while Officer Moore continued to strike him. He said he could not breathe and began to fall. As he was falling, Officer Moore struck him one last time in the face. He told the officers he could not breathe because he

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he said he suffers from asthma, so the officers dragged him out of the apartment and sat him on the sidewalk. Mr. Daniel said that he was sitting on the sidewalk and a third officer arrived and when he said he was still having difficulty breathing, the third officer held him up. This officer did not hit him. A resident brought some water to one of the officers and the officer poured the water over his head. They picked him up and took him to the parking lot and eventually put him in the patrol car and drove him to Mrs. Winners Restaurant on McDonough Boulevard to meet the ambulance. He was treated in the ambulance then taken to the precinct where he remained for about two hours before being taken to Grady Hospital for further treatment. He sustained several lacerations and cuts to his face. He was charged with robbery by force and obstruction and remained in jail for two weeks.

Mr. Daniel identified Officers Richard Ramirez and Lyle Moore as the two officers who assaulted him. The identification was made from photographs provided by Daniel's mother.

Daniel's mother also produced a video which shows Daniel sitting on the sidewalk with his hands cuffed to the front. There were four APD officers present. One officer was holding Daniel's head and another officer appears to be holding him up. The other two officers are standing nearby. Daniel's face is covered in blood, and at one point, one of the officers is shown bringing a cup of water and a towel and gives the water and towel to the officer holding Daniel's head. That officer pours the water over Daniel's head.

Interviews were conducted with residents in the apartment complex. Mr. G.W. said that he saw Mr. Daniel being chased by an Atlanta police officer. He said that although Daniel was running, he appeared to be out of breath and the officer was still running behind him. Daniel ran towards an apartment and saw the officer take his firearm and put it to Daniel's head and said, "Don't make me do it." He said Daniel ran through the apartment and when he exited the back door, there were three officers chasing him and they ran towards his apartment. They all ran into his apartment and began punching Daniel throughout his body. Mr. Daniel was not resisting. The resident, G.W., said Mr. Daniel was bleeding from his head and face and the officer carried him out the back door and sat him on the ground and poured water over his head. The witness noted that when Daniel entered the apartment, he was not bloody.

A second witness, Mr. R.J., indicated that he was in his living room with the front and back doors open and Mr. Daniel came running through his apartment, followed by two police officers; one Hispanic and one African American. Daniel then ran to G.W.'s apartment, followed by the officers. He did not see what happened in the second apartment, but they eventually brought Daniel out of the apartment and sat him on the curb and poured water over his head.

A third witness, Ms. S.M., said that she saw the police chase Mr. Daniel into G.W.'s apartment and observed an unidentified African American officer hit Mr. Daniel in the head with an unidentified object. Mr. Daniel was sitting on the living room floor, surrounded by three officers; two African Americans and one Caucasian. The officers dragged Daniel out of the apartment and there was blood all over his face.

Four involved officers were then interviewed. Officer Nicholas Mercado advised that he and Officer Moore are partners assigned to Zone 6 FIF Unit. They were on patrol when an investigator advised on the radio that he had a robbery suspect in the Forest Cove Apartments. Officer Mercado said Officer Moore responded and said he was in route. A few minutes later he heard Officer Moore say that he was in a foot pursuit. He heard Officer Moore say he had deployed his OC spray but the suspect was still fighting. He said Officers Ramirez and Moore advised via radio that Mr. Daniel had entered into an apartment and they were all inside. Officer Mercado said he arrived at the same time as Officer Dawson. He observed a large crowd and an unidentified woman said to him, "Get that man out

of my apartment." He then looked inside and saw Officers Moore and Ramirez on the floor struggling with Daniel, trying to get the handcuffs on him. He heard the officers repeatedly giving Daniel loud verbal commands to stop resisting. Mercado said that he noticed one of Daniel's hands had been cuffed and Officer Moore was struggling to put on the second cuff. He said Officer Moore was tired and running out of energy, so he grabbed Daniel's left hand and put the second cuff on him. He cuffed Daniel in the front and lifted him up and he fell back down. Officers Ramirez and Moore walked outside to get some air and he sat next to Daniel. Officer Mercado took Daniel out of the apartment through the back door and Daniel would not stand on his own, so he got behind him and lifted him and Officer Ramirez helped to walk him outside. There was a large crowd and so they radioed for assistance. Officer Ramirez went back into the apartment and got some water and poured it over Daniel's face to help get the OC spray out of his eyes. Officer Mercado said that he did not strike nor did he observe any of the officers strike Daniel.

Officer Ramirez advised he was dispatched because an officer had identified a robbery suspect. He saw Officer Moore chasing Mr. Daniel and proceeded to engage in the chase. Officer Ramirez said that he noticed Officer Moore slow down and Ramirez continued to chase Daniel into at least two or three apartments. He entered the last apartment and pushed Daniel and tried to grab him and handcuff him but Daniel resisted by using his weight to push him away. He said that Daniel said that he was giving up but he continued moving towards the back door. Daniel pushed him with such force that he almost fell. Officer Moore intervened and struggled with Daniel. He said he had to do something to put him under control, so he punched Daniel on the left side of his ribs and punched him in either his left or right eye. Daniel slowed down and fell but he didn't know if Daniel fell on his own or if Moore tackled him. They continued to struggle and he noticed that Daniel was bleeding. Officer Mercado arrived and assisted with handcuffing. Daniel complained that he could not breathe so they took him outside. He asked for water and he took the water and poured it over Daniel's head so he could get the OC spray out of his eyes. Officer Ramirez was asked if he used a choke hold and he said that at one point during the struggle, his arm did slip around Daniel's neck because he was slippery from the spray. He added that it was around his neck for only 15-20 seconds and he did not hear Daniel say he could not breathe. He said that Daniel bit him on both hands while he had him in a choke hold. Officer Ramirez said that he only struck Daniel twice and did not observe Officer Moore or any other officer strike him.

Officer Moore said that after he received the information from a detective about the robbery suspect, he observed the suspects sitting on a wall and advised radio. He saw Officer Watkins walk in the direction of the suspects and he proceeded in the same direction. He got to the area where the suspects were and saw that Officer Watkins had one in custody. Officer Watkins told him the others had fled. Officer Moore said he saw Mr. Daniel running up a hill and he gave chase and notified the radio of a foot pursuit. He observed Daniel lying in the grass in an attempt to hide and ordered him to come out and get down on the ground. He came out of the grass but did not get on the ground. Officer Moore tried to grab his wrist but Daniel pulled away, smacked his hand and fled. Officer Moore yelled out for Daniel to stop but he did not. He attempted to grab him again but the Officer felt some pain in his hamstring and could not continue. He called for assistance. Mr. Daniel fell and he sprayed him with OC spray, however, the OC spray also got into the officer's face. He chased him into the apartment and when they reached the street, he lunged towards Daniel and they fell to the ground. He attempted to use the OC spray again but it was empty. Daniel got up and the chase continued. He drew his firearm. Daniel ran into an apartment and Officer Moore put his foot inside the door to keep it open until Officer Ramirez arrived. They entered the apartment and Officer Ramirez grabbed Daniel from behind and Daniel resisted. Officer Moore grabbed him to handcuff him but Daniel kicked him in the leg and struck him in his face. Officers Mercado and Dawson arrived and they were able to cuff him.

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They took Daniel outside and poured water over his head in an attempt to wash away the OC spray. Officer Moore said that he could not say how many times he struck Mr. Daniel. He did not see any other officer strike Mr. Daniel. Officer Moore sustained cuts to his hands and lip and was treated.

Officer Dawson arrived at the apartments, there were 20 people standing in front. He entered and saw Mr. Daniel sitting on the floor and Officers Moore and Ramirez were trying to get him into custody. Officer Dawson grabbed Daniel's arm and tried to cuff him in back, but he was too big, so with the assistance of Officer Mercado, they double cuffed him in the front. Once handcuffed, they took him out of the apartment and Mr. Daniel kept falling and complaining about the burning. One of the officers got some water and poured it over Daniel's head to help wash away the OC spray. Officer Dawson said that he did not strike Mr. Daniel nor did he observe any officer strike him.

The Board considered the above evidence and voted to recommend that a **Sustained** finding be assigned to the excessive force complaint against Officers Moore and Ramirez. They voted to **Not Sustain** the allegations against Officer Mercado and Dawson. The Board further recommends that a five day (5) suspension be imposed upon Officers Moore and Ramirez.

Please let me know if you will need any further information or would like a copy of the investigation

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Caesar Mitchell
Members of Atlanta City Council
ACRB Members